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## ISSUES UPDATE

March 1998

### MISCELLANEOUS

(Seth Moskowitz - 7698)

**IARC ETS Study** – In its recent biannual report, the World Health Organization's International Agency for Research on Cancer published the results of its multi-center European ETS study (10 study centers in 7 countries). The study reported a statistically non-significant overall relative risk (RR) of 1.16 (compared to the statistically significant 1.19 reported by the U.S. EPA in 1994). The workplace RR was a statistically non-significant RR of 1.14. Early media coverage in Canada and England is carrying headlines such as "Second-hand smoke/cancer said unrelated," "No harm from second-hand smoke," and "Second-hand smoke study 'garbage science'" and "Passive smoking doesn't cause cancer -- official."

### LEGISLATION/REGULATION

(Roger Mozingo - 7665; Peggy Carter- 7674)

#### CIGARETTE EXCISE TAXES

- The Minnesota House Taxation Committee tabled a bill which would have increased the cigarette tax 27¢ per pack (48 - 75¢).
- The New Mexico legislature passed and sent to the Governor a 12¢ per pack (21 - 33¢) cigarette tax hike. The Governor has said he will veto the bill.
- The Wyoming House Revenue Committee voted to postpone indefinitely a 13¢ per pack (12 - 25¢) cigarette tax increase.
- ✕ • A New Hampshire measure to increase the cigarette tax by 10¢ per pack (37 - 47¢) failed to pass the House.
- The Hawaii House Judiciary Committee favorably reported out a bill that would require a tax stamp displayed on each package of cigarettes sold.

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The bill would also delay for one year the 20¢ per pack tax increase scheduled for 7/1/98.

- In **Oklahoma**, the sponsor of the referendum that contained an increase in the excise tax of \$1.00 per pack (23¢ - \$1.23), removed the tax increase provision. The bill then passed the Senate and was sent to the House.
- The **Evanston, Illinois**, City Council passed a budget that includes a 6¢ per pack cigarette tax increase.

#### **MEDICAID/THIRD PARTY LIABILITY/LITIGATION SETTLEMENT**

- The **Vermont** House passed legislation that would give a cause of action for the State to recover Medicaid expenses for treatment of tobacco related health problems.
- A bill introduced in the **Maryland** Senate would allow the state to have direct cause of action in suing tobacco companies and also allow the state to use statistical evidence in tobacco Medicaid recovery cases. An initial hearing has been set for March 10. A coalition of business groups are actively opposing the proposal.
- A second hearing will be held next Tuesday on the **Alabama** Attorney General's "assessment" legislation. A previous hearing ended abruptly without time for the industry to present testimony. It is anticipated that the AG's bill, or some version of it, will be reported out of committee.

#### **SALES, MARKETING, YOUTH ACCESS, SMOKING RESTRICTIONS**

- The **Idaho** Senate, by a 30-5 vote, passed and sent to the House a bill to ban self-service displays and vending machines throughout the state.
- Preemption has been removed by the sponsor of a self-service display ban measure in **Utah**. The Utah Food Industry Association has joined the tobacco industry in a unified opposition effort.
- As expected, the **New York City** Council adopted an extension of the recently enacted tobacco advertising restriction statute. The effective date will be late August.

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## DIVESTMENT

- Minnesota legislation to require the state board of investment to sell a percentage of the shares of stock that it owns in tobacco companies is considered dead for the year.

## INGREDIENTS DISCLOSURE

- A Utah measure that would require cigarette, cigar and smokeless tobacco producers to detail the existence of five specific ingredients in their brand name products was voted out of committee and sent to the House floor for debate.
- X • In a preliminary vote, the Maine Joint Health and Welfare Committee voted "ought not to pass" on tobacco ingredients disclosure legislation.

## SMOKING RESTRICTIONS

- The California Assembly passed legislation to suspend the prohibition in bars and taverns until 1/1/2000. No Senate action has been scheduled.
- X • The Indiana Senate passed legislation to restrict and/or ban smoking in educational institutions, child care centers and health care facilities.
- In Arizona, the House Government Reform and States Rights Committee defeated a bill to put on the election ballot a California-style smoking ban, which would have included restaurants, bars and clubs.

## LAWSUITS

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(Dan Donahue - 0656; 0644; Tom McKim - 3348; Peggy Carter - 7674)

**TOTALS** -- RJR currently has a total of 540 pending smoking and health suits. 47 are class actions. The industry has 771 (which includes those that RJR is party to).


## MEDICAID/THIRD PARTY LIABILITY

- Minnesota -- Trial started Jan. 20. Plaintiff continues to present its case. Andy Schindler testified March 5 and 6.

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## RETAIL ISSUES

**Minnesota** - On 3/16, the Cambridge City Council will consider a self-service display ban. On 4/8, the Sherburne County Board will hold a hearing on a self-service display ban.

 **Suffolk County, NY** — On 3/10, the county legislature will hold a hearing on a proposal to ban self-service displays of tobacco products


## SMOKING ISSUES


**Sierra Vista, AZ** — In the summer, the council decided not to pursue a smoking ban. Now, a group of citizens are working to get signatures for a ballot measure that would require restaurants to have separate smoking and nonsmoking areas but otherwise preempt the city from enacting further restrictions on smoking. The matter should be on the ballot in the fall of '98.

**San Anselmo, CA** — The City Council is talking about taking a position on the statewide smoking ban. It would only be a resolution. However, it could have an effect on enforcement as local governments must enforce the ban.

**Montrose, Co** — On 2/11, the city council heard public comments on a possible smoking ban in restaurants and workplaces. Tavern license holders would be exempt. The city manager said that most were concerned about a ban's economic impact. The council tabled the bill and want to conduct a study of the possible impact. They will put on the 4/7 ballot an advisory question seeking approval to go forward with the study.

**Willmette, IL** - A smoking ban is being considered, and a hearing is expected on 3/12.

 **Portland, ME** — On 2/12, a City Council Committee considered an ordinance to ban self-service displays and smoking in restaurants except for separate and separately ventilated smoking areas. Bars are exempt. The committee did not endorse or disapprove the ordinance, but forwarded the proposal to the council. First reading is on 3/16 with a public hearing on 4/6.

 **Massachusetts Local** — On 2/15, Boston's Mayor held a press conference with the City Health Commissioner on a plan to ban smoking in restaurants. His proposal would exempt bars and restaurant bar areas that are physically separated from the dining area. The commission held a hearing on 2/26. The commission will likely pass the regulation in June. Two city council

- There are now 44 union health and welfare funds suing the industry.
- There are currently 39 AG cases pending, including South Dakota, which was served on the company Feb. 24.

## CLASS ACTION

- Broin (flight attendant ETS case that was settled last year) – the settlement has been challenged by four law firms representing 40 individual class members. An appeal was filed with the Florida state appeals court Feb. 26.

## INDIVIDUAL SUITS

- Wk 4/24*
- Dunn (County of Delaware, Indiana), is an ETS suit filed on behalf of a deceased nurse (Mildred Wiley). Trial began Feb. 9. Plaintiff rested case March 4. Defendants filed motions for directed verdict, but court has not ruled on the motions. Defendants began presenting case March 5.

## BRAND RELATED

- Winston – Attorney general in Arizona has amended the state AG suit against the industry seeking a preliminary injunction to stop Winston advertising in that state. This is based on allegations that we are making implied health claims and that Winston advertising is false and deceptive because there are additives in the filter, paper and the tobacco. No date has been set for the preliminary hearing. Ohio made a similar claim in a stand-alone action filed against the company. The company prevailed in a temporary injunction hearing last week, so Winston advertising can continue. A trial should start in about a year.

## STATE AND LOCAL

(Roger Mozingo - 7665; Ron Cole - 3713)

(NOTE: Some of the following issues have not had recent action, but they are still on the table and subject to possible implementation.)

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members think the proposal doesn't go far enough. They plan to propose to the city council a complete ban on smoking in restaurants and bars

*X* **New York Local Issues** — The Cattaraugus County Legislature has tabled indefinitely a proposal to ban smoking in most public places. The Chautauqua County Legislature is still considering a ban on smoking in public, but has not set another hearing date. The health committee does not have a draft. The Niagara County legislature is not eager to pass a smoking ban, but the board of health is threatening to pass a very strict ban if they don't. And the board may still pass one if the legislature's proposal isn't strict enough. The legislature will once again appoint a committee to review the smoking ban proposal to make changes to make it more user friendly. Next door in Erie County, no nonsmoking policy in Niagara has hurt business for restaurants, particularly those along the border. So the legislature may look into a temporary compromise to alleviate the economic hardship.

**Houston, TX** — On 3/31, the city's environmental health department has planned a public hearing on a smoking ban regulation.

#### KEY ISSUES FOR MARCH

- Settlement Issues
- Medicaid/Tort Legislation - California; Iowa; Vermont; Maryland; Missouri
- Taxes - California; Alabama; Delaware; Maryland; Iowa; Minnesota; Oklahoma
- Marketing Restrictions - California; Idaho; Iowa; Minnesota; Ohio; Wisconsin; Boston, MA
- Ingredients Disclosure - Massachusetts; Maine; Minnesota
- "Fire Safe" Cigarettes - California

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